

Pension Benefit Guaranty Corporation

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for review pursuant to subpart C or D of this part, or necessary to a decision whether to seek review, or necessary to participate in an appeal pursuant to § 4003.57 of this part or necessary to a decision whether to participate, may request the PBGC's assistance in obtaining information or documents in the possession of a party other than the PBGC. The request shall state or describe the missing information or documents, the reason why the person needs the information or documents, and the reason why the person needs the assistance of the PBGC in obtaining the information or documents. The request may also include a request for an extension of time to file pursuant to § 4003.4 of this part.

§ 4003.4 Extension of time.

(a) *General rule.* When a document is required under this part to be filed within a prescribed period of time, an extension of time to file will be granted only upon good cause shown and only when the request for an extension is made before the expiration of the time prescribed. The request for an extension shall be in writing and state why additional time is needed and the amount of additional time requested. The filing of a request for an extension shall stop the running of the prescribed period of time. When a request for an extension is granted, the PBGC shall notify the person requesting the extension, in writing, of the amount of additional time granted. When a request for an extension is denied, the PBGC shall so notify the requestor in writing, and the prescribed period of time shall resume running from the date of denial.

(b) *Disaster relief.* When the President of the United States declares that, under the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121, 5122(2), 5141(b)), a major disaster exists, the Executive Director of the PBGC (or his or her designee) may, by issuing one or more notices of disaster relief, extend the due date for filing a request for reconsideration under § 4003.32 or an appeal under § 4003.52 by up to 180 days.

(1) The due date extension or extensions shall be available only to an aggrieved person who is residing in, or whose principal place of business is within, a designated disaster area, or

with respect to whom the office of the service provider, bank, insurance company, or other person maintaining the information necessary to file the request for reconsideration or appeal is within a designated disaster area; and

(2) The request for reconsideration or appeal shall identify the filing as one for which the due date extension is available.

§ 4003.5 Non-timely request for review.

The PBGC will process a request for review of an initial determination that was not filed within the prescribed period of time for requesting review (see §§ 4003.32 and 4003.52) if—

(a) The person requesting review demonstrates in his or her request that he or she did not file a timely request for review because he or she neither knew nor, with due diligence, could have known of the initial determination; and

(b) The request for review is filed within 30 days after the date the aggrieved person, exercising due diligence at all relevant times, first learned of the initial determination where the requested review is reconsideration, or within 45 days after the date the aggrieved person, exercising due diligence at all relevant times, first learned of the initial determination where the request for review is an appeal.

§ 4003.6 Representation.

A person may file any document or make any appearance that is required or permitted by this part on his or her own behalf or he or she may designate a representative. When the representative is not an attorney-at-law, a notarized power of attorney, signed by the person making the designation, which authorizes the representation and specifies the scope of representation shall be filed with the PBGC in accordance with § 4003.9(b) of this part.

§ 4003.7 Exhaustion of administrative remedies.

Except as provided in § 4003.22(b), a person aggrieved by an initial determination of the PBGC covered by this part, other than a determination subject to reconsideration that is issued

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by a Department Director, has not exhausted his or her administrative remedies until he or she has filed a request for reconsideration under subpart C of this part or an appeal under subpart D of this part, whichever is applicable, and a decision granting or denying the relief requested has been issued.

§ 4003.8 Request for confidential treatment.

If any person filing a document with the PBGC believes that some or all of the information contained in the document is exempt from the mandatory public disclosure requirements of the Freedom of Information Act, 5 U.S.C. 552, he or she shall specify the information with respect to which confidentiality is claimed and the grounds therefor.

§ 4003.9 Filing of documents.

(a) *Date of filing.* Any document required or permitted to be filed under this part is considered filed on the date of the United States postmark stamped on the cover in which the document is mailed, provided that—

(1) The postmark was made by the United States Postal Service; and

(2) The document was mailed postage prepaid, properly packaged and addressed to the PBGC.

If the conditions stated in both paragraphs (a)(1) and (a)(2) of this section are not met, the document is considered filed on the date it is received by the PBGC. Documents received after regular business hours are considered filed on the next regular business day.

(b) *Where to file.* Any document required or permitted to be filed under this part in connection with a request for reconsideration shall be submitted to the Director of the department within the PBGC that issued the initial determination. Any document required or permitted to be filed under this part in connection with an appeal shall be submitted to the Appeals Board, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026.

§ 4003.10 Computation of time.

In computing any period of time prescribed or allowed by this part, the day

of the act, event, or default from which the designated period of time begins to run is not counted. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or Federal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or a Federal holiday.

Subpart B—Initial Determinations

§ 4003.21 Form and contents of initial determinations.

All determinations to which this subpart applies shall be in writing, shall state the reason for the determination, and, except when effective on the date of issuance as provided in § 4003.22(b), shall contain notice of the right to request review of the determination pursuant to subpart C or subpart D of this part, as applicable, and a brief description of the procedures for requesting review.

§ 4003.22 Effective date of determinations.

(a) *General rule.* Except as provided in paragraph (b) of this section, an initial determination covered by this subpart will not become effective until the prescribed period of time for filing a request for reconsideration under subpart C of this part or an appeal under subpart D of this part, whichever is applicable, has elapsed. The filing of a request for review under subpart C or D of this part shall automatically stay the effectiveness of a determination until a decision on the request for review has been issued by the PBGC.

(b) *Exception.* The PBGC may, in its discretion, order that the initial determination in a case is effective on the date it is issued. When the PBGC makes such an order, the initial determination shall state that the determination is effective on the date of issuance and that there is no obligation to exhaust administrative remedies with respect to that determination by seeking review of it by the PBGC.